



# COUNTY OF YOLO

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January 25, 2011

### VIA ELECTRONIC MAIL AND U.S. MAIL

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Re: Notice of Preparation—Draft EIR for the Delta Plan  
Comments of Yolo County

Dear Ms. Macaulay:

The County of Yolo (“County”) submits the following initial comments in response to the Notice of Preparation (“NOP”) of the EIR for the Delta Plan. These comments are provided in the County’s capacity as a “responsible agency” under the California Environmental Quality Act.

### INTRODUCTION AND OVERVIEW

The County has previously raised a number of specific, overarching concerns with ecosystem restoration measures included in the Bay Delta Conservation Plan. These concerns are also applicable to other plans, programs, and projects—even those unrelated to ecosystem restoration—that may affect the Yolo Bypass or portions of the legal Delta that lie within Yolo County. Accordingly, in addition to the more specific comments set forth below, the County offers the following as an overview of its main issues of concern with regard to the potential environmental and other impacts of the Delta Plan:

- **Flood protection must be maintained.** The County cannot accept changes in the Yolo Bypass or other flood control facilities that increase the level of flood risk to local properties. This issue is of critical importance and should be carefully considered in the EIR for the Delta Plan to the extent the Plan could directly or indirectly affect flood protection. Also, the EIR should consider whether any plans, programs, or policies described in the Delta Plan will impede the restoration and enhancement of flood protection facilities in the County.
- **Agriculture must be preserved.** Agricultural activities in the Clarksburg area and the Yolo Bypass are a significant contributor to the County’s agricultural economy and culture. Within the Yolo Bypass, agriculture is also integral to the operation of the Yolo Bypass Wildlife Area and to maintaining the level of flood protection afforded by the Bypass. Impacts on agriculture should be carefully studied in the EIR for the Delta Plan and avoided or mitigated in coordination with the County.

- **Local economic impacts must be addressed.** All appropriate steps must be taken to identify and fully mitigate local economic impacts of the Delta Plan, including but not limited to its effects on County revenues and the agricultural industry. The County should be closely consulted as financial assistance programs or other mitigation measures are developed.
- **Important cultural, historic, recreational, and other resources must be carefully considered.** Both the Clarksburg area and the Yolo Bypass Wildlife Area are of great importance to the County. As described in further detail below, the Clarksburg area is home to a thriving agricultural industry and the historic town of Clarksburg. Further north, the Yolo Bypass Wildlife Area affords significant educational and recreational opportunities to residents of the Delta. These are all invaluable assets to Yolo County and the surrounding region, and should be protected and enhanced over time.
- **Completion and implementation of the Yolo Natural Heritage Program must be assured.** The County and the four cities (Woodland, Davis, West Sacramento, and Winters), together with UC Davis, have worked for years to complete a local HCP/NCCP (the Yolo Natural Heritage Program) through a joint powers authority. This effort is nearing completion and the Delta Plan should complement and assist with the completion and implementation of this effort.

This is a partial list of the most pressing concerns of the County with regard to the Delta Plan and its potential effects. We respectfully ask the Delta Stewardship Council to carefully study all of the issues underlying these concerns as part of the Delta Plan environmental review process.

The following sections describe a range of more specific issues pertaining to the NOP and the preparation of the Delta Plan EIR.

### THE LEGAL ADEQUACY OF THE NOP

As an initial matter, the NOP appears to lack an adequate project description. The County recognizes that this is likely because the Delta Stewardship Council is still in the preliminary stages of developing the Delta Plan. The NOP and scoping process, however, may be premature for this very reason. Without specific details of the “project” under consideration, responsible agencies and members of the public cannot properly participate in the scoping process.

To help avoid such a problem, the CEQA Guidelines set forth certain legal requirements that apply to NOPs. Section 15082(a)(1) of the CEQA Guidelines states that an NOP must “provide the responsible and trustee agencies . . . with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a *meaningful response*.” To this end, a legally adequate NOP must include: a description of the project; its location, either by street address or on a map; and a statement of the project’s probable environmental effects. CEQA Guidelines § 15082(a)(1). Responsible agencies (like the County) must then respond “with specific detail about the scope and content of the environmental information related to the responsible or trustee agency’s area of statutory responsibility that must be included in the draft EIR.” CEQA Guidelines § 15082(b). And just as an overly broad project description in an NOP is legally inadequate, so too is a response that is merely a “generalized list of concerns not related to the specific project” described in the NOP.

But under the circumstances present here, it is difficult for the County to respond with more than a “generalized list of concerns” when the NOP itself contains, at best, only a generalized description of the contemplated project. The NOP makes clear only that the Delta Plan could be just about anything at all, as evidenced by the “bookends” described in Figure 2 on p. 15 of the NOP. Those “bookends” describe a number of planning scenarios that are at opposite ends of the policy spectrum. For example, on water resources, Bookend A is “emphasis on local sustainability and reduced reliance on Delta for future water supply needs,” while Bookend B is “emphasis on continued use of existing or expanded statewide water resources.”

These are very different things. While these “bookends” could be useful in defining a reasonable range of alternatives to a project, they do not seem to provide a meaningful description of the “project” itself (as required under California law). The same is true for the various “alternative implementation strategies” set forth on pages 17-24 of the NOP, which simply identify different ways that the Delta Plan could address particular issues of concern. Overall, the absence of a project description is a flaw in the NOP that makes it difficult for the County to “make a meaningful response” pursuant to CEQA.

## **POTENTIAL ENVIRONMENTAL EFFECTS OF THE DELTA PLAN**

With the foregoing limitation in mind, the County offers the following specific comments on the potential environmental effects of the Delta Plan and potential alternatives thereto. Based on the NOP, it appears that the statutory Delta is the “principal planning area” for the Delta Plan. The following comments thus focus on issues relevant to this area, though concerns that apply more broadly are also described briefly in the following sections.

### **A. Agricultural Impacts.**

The potential effect of the Delta Plan on the continued vitality of the County’s agricultural industry is of great concern. The Delta Plan will directly affect the Clarksburg area, which is of critical importance as a premier agricultural region within Yolo County and as the site of Clarksburg, a Delta legacy town established about 150 years ago. About 78 percent of the area is currently subject to Williamson Act contracts. And while it includes only about 9 percent of the land area within the County, crops grown in the Clarksburg area account for more than 20 percent of Yolo County’s total agricultural production value (more than \$70 million annually). Clarksburg is also a federally-designated appellation, with nearly 9,000 acres planted in wine grapes, and it is home to an active and thriving winery industry, including several increasingly renowned labels such as Bogle Vineyards, Carvalho Family Wines, Heringer Estates, and Wilson Vineyards.<sup>1</sup>

The NOP indicates that the EIR for the Delta Plan will study:

... potential effects on agricultural land, such as those that could occur through programs that support or enhance agriculture, conversion of agricultural land or open space for ecosystem restoration or flood management, or methods to protect agricultural lands and

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<sup>1</sup> The County has taken steps to further enhance this productive and valuable farming region. On January 29, 2008, the Board of Supervisors adopted a resolution establishing Clarksburg as the County’s first “agricultural district.” The County’s objectives for the Clarksburg Agricultural District are to increase the amount of acres planted in wine grapes, to encourage the construction of local wine production facilities (instead of shipping much of the crop out of the County for processing), and to expand tourism to the area. In these and other ways, the County intends to strengthen the ability of local farmers to compete more effectively in the global marketplace.

communities from future risks, such as enhanced levees or relocated transportation or utility corridors.

This appears to be an appropriate range of potential effects to consider in the Delta Plan EIR. Agriculture could be greatly impacted by the Delta Plan, and the potential effects are much the same regardless of whether farmland goes out of production because of increased regulatory burdens, a lack of available processing facilities, or direct conversion to habitat or urban development. It is particularly important to preserve the ability to attract agricultural processing facilities.<sup>2</sup> Without wineries and related facilities, the opportunity to expand both tourism and high-value agriculture in the Clarksburg area would be dealt a severe blow. Further, as fuel prices continue to increase, the cost of shipping grapes out of the area will make local crops less competitive for use as blending juice in Lodi or Napa wines. Without these contracts, vineyards may no longer be an economically feasible crop in the Clarksburg region.

Other agricultural areas throughout the Delta could be similarly impacted by implementation of the Delta Plan. The EIR should therefore study all of the following potential impacts, both with respect to the Clarksburg area and similar regions in primary and secondary planning areas of the Delta Plan:

- **The Direct Loss of Farmland.** How much farmland will be converted to water supply infrastructure, habitat, or other non-agricultural uses as part of the Delta Plan and projects directly or indirectly covered thereunder? Will mitigation—such as agricultural conservation easements in accordance with local requirements—be provided? The County strongly recommends that issues of agricultural and habitat mitigation be deferred to local jurisdictions that have established mitigation requirements as part of their General Plans, zoning codes, or other legally enforceable mechanisms.
- **The Fallowing or Indirect Loss of Farmland.** Will implementation of the Delta Plan and related projects result indirectly in the conversion of additional farmland to other uses, or simply the cessation of agricultural uses? How will such indirect conversions be mitigated?
- **The Williamson Act.** How will implementation of the Delta Plan affect existing Williamson Act contracts, farmland security zone contracts, and similar farmland preservation tools (such as conservation easements)?
- **Additional Restrictions on Agricultural Practices.** To what extent will implementation of the Delta Plan result in additional restrictions on agricultural practices—including both current and reasonably foreseeable future practices?

## **B. Carbon Sequestration and Greenhouse Gas Emissions/Climate Change.**

The County concurs with the general scope of analysis described in the NOP with regard to carbon sequestration and greenhouse gas emissions. It also suggests, however, that the EIR consider the effect of the Delta Plan on goals, policies, and programs included in local climate action plans and any related

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<sup>2</sup> For example, Bogle Winery is completing a large, state-of-the-art wine grape processing facility near Clarksburg. This facility benefits Clarksburg-area growers and, in particular, reduces the need to transport wine grapes long distances to out-of-county processing facilities.

local goals and policies. The County will be considering the adoption of a detailed and innovative Climate Action Plan on February 1, 2011, which will implement many of the policies set forth in its recently-adopted 2030 Yolo County General Plan.<sup>3</sup> The County is also a participant in the Cool Counties Climate Stabilization Declaration (which includes a commitment to reduce GHG emissions by 80% by 2050). The effect of the Delta Plan on these local efforts should be carefully considered.

In addition, the County encourages the Delta Stewardship Council to consider the role of agriculture—and in particular, the planning of orchards and similar permanent crops—in carbon sequestration. The preservation of agriculture and open space, including riparian areas, will contribute greatly to local, regional, and state goals for reducing greenhouse gas emissions, and this should be recognized in the Delta Plan and its EIR.

### **C. Biological Resource Impacts.**

The County observes that the NOP fails to mention the Yolo Natural Heritage Program, an HCP/NCCP effort guided by a joint powers authority (“JPA”) that is described above. This effort has been underway for many years and is now at a very advanced stage. It should be recognized and the JPA should—like other entities engaged in similar efforts in the Delta—be considered a responsible agency under CEQA with regard to the Delta Plan EIR.

In addition, the EIR should consider potential conflicts between the Delta Plan and the Yolo Natural Heritage Program, as well as other established plans and programs relating to biological resources in the primary and secondary planning areas (e.g., the Management Plan for the Yolo Bypass Wildlife Area). This is likely a component of many of the tasks that are identified in the NOP with regard to biological resources, including evaluating potential effects on terrestrial biological resources, and coordination with local HCPs and NCCPs is specifically mentioned in the NOP. It is the County’s view that such coordination on both planning and environmental review issues is critical to an adequate analysis of biological resource impacts. Also, to the extent that the EIR may identify mitigation for impacts to such resources, the County urges the Delta Stewardship Council to consider and incorporate locally-adopted mitigation programs (e.g., for Swainson’s hawk in Yolo County).

### **D. Economic Impacts.**

The County generally concurs that the scope of analysis of economic impacts described in the NOP is appropriate. It urges the Delta Stewardship Council to coordinate closely with cities, counties, and other affected local governments on this issue. It also urges the Council to consider the extent to which the direct and indirect loss of farmland following implementation of the Delta Plan may cause environmental effects—such as urban blight and similar deterioration—in Clarksburg and other legacy towns in the Delta. Also, regardless of whether such analysis is directly required by CEQA, the County urges the Council to fully examine the potential effect of the Delta Plan on employment (including but not limited to those employed by the agricultural industry), social institutions such as schools, churches, and fire departments, and the economic and cultural vitality of Clarksburg and other legacy towns in the Delta.

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<sup>3</sup> A draft of the Climate Action Plan is available for review at <http://www.yolocounty.org/Index.aspx?page=2004>.

**E. Land Use and Planning Impacts.**

In general, the County concurs with the approach described in the NOP for evaluating conflicts with existing land use policies in the EIR for the Delta Plan. Of particular importance is the potential for conflicts with the new 2030 Yolo County General Plan, adopted by the County in November 2009 after years of effort. As noted above, in addition to examining the potential for conflicts with local general plans and zoning, the EIR should also consider potential conflicts with locally adopted climate action plans. It should also review the extent to which existing levees and related infrastructure may need to be altered to accommodate projects anticipated in the Delta Plan. This critical issue is mentioned briefly in a number of places in the NOP and deserves significant attention in the EIR. Also, the relationship between the Delta Plan and the Central Valley Flood Protection Plan should be fully discussed and analyzed.

**F. Impacts on Utilities and Public Services.**

The NOP indicates that the Delta Plan EIR will include a comprehensive analysis of potential effects on utilities and public services (including schools, law enforcement, fire protection, emergency services, and other public services in the Delta). To the extent that the Delta Plan recognizes the potential for large tracts of privately-held land to be converted to state or federal ownership, the EIR should examine how the loss of local property taxes and other revenues may impair the ability of local agencies to continue to deliver public services. It should also consider feasible mitigation, such as an increased allocation of property tax revenues to Delta counties or a guaranteed (via an endowment or otherwise) source of payments in lieu of taxes.

For Yolo County, the resulting loss of property tax would compound existing structural inequities such as the shift in Educational Revenue Augmentation Funds. These effects would be particularly acute at a time when local government is already facing grim challenges as the economy slows, in the wake of declining real estate values and growing unemployment and social service demands. Similarly, a reduction in local property taxes as the result of state land acquisition for habitat restoration would adversely impact special districts such as fire protection and reclamation districts, making it increasingly difficult for them to perform critical functions.

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The County appreciates the opportunity to comment on the Delta Plan, and encourages the Delta Stewardship Council to consider additional scoping meetings once the project description becomes more clear. We look forward to being closely involved in the planning and environmental review process as it moves forward.

Sincerely,



Matt Rexroad, Chair  
Yolo County Board of Supervisors